

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,
a Washington Corporation,

Plaintiff,

v.

TOMTOM N.V., a Netherlands Corporation,
and TOMTOM, INC., a Massachusetts
Corporation,

Defendants.

Case No: _____

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY DEMAND

Plaintiff Microsoft Corporation (“Microsoft”) for its Complaint For Patent Infringement against Defendants TomTom N.V. and TomTom, Inc. (collectively, the “Defendants”), alleges as follows:

PARTIES

1. Plaintiff Microsoft Corporation is a Washington corporation having its principal place of business at One Microsoft Way, Redmond, Washington 98052.

2. Founded in 1975, Microsoft is a worldwide leader in computer software, services and solutions for businesses and consumers. Since 1979, Microsoft has been headquartered in the Seattle, Washington metropolitan area, currently employs more than 20,000 people in the Seattle area, and occupies nearly 8 million square feet of facilities at its Redmond campus.

COMPLAINT - 1

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1 3. Microsoft has a long history of technical innovation in the software and hardware
2 products it develops and distributes. These software products include operating systems for
3 servers, personal computers, embedded devices, smartphones, PDAs, and other intelligent
4 devices; server applications for distributed computing environments; information worker
5 productivity applications; business solution applications; high-performance computing
6 applications; software development tools; operating systems for automotive applications; and
7 various navigation-related software products and services.

8 4. Upon information and belief, Defendant TomTom N.V. is a Dutch corporation
9 organized and existing under the laws of the Netherlands having a principal place of business at
10 Rembrandtplein 35, Amsterdam 1017 CT, Netherlands.

11 5. Upon information and belief, Defendant TomTom, Inc. is a corporation organized
12 and existing under the laws of Massachusetts and is a wholly-owned subsidiary of TomTom
13 N.V. TomTom, Inc.'s principal place of business is located at 150 Baker Ave Ext., Concord,
14 Massachusetts 01742.

15 6. Upon information and belief, Defendants are in the business of developing,
16 manufacturing, and selling portable navigation computing devices and software for use on those
17 devices, personal computers, PDAs, and smartphones (hereinafter known collectively as
18 "Portable Navigation Devices and Software"). Upon information and belief, Defendants market
19 and distribute their products worldwide, including in the United States, through their channel
20 business partners and various retail companies, at retail stores, through the websites of retail
21 companies, and on their own websites. Upon information and belief, Defendants do business
22 within the Western District of Washington.

23 **JURISDICTION AND VENUE**

24 7. This is an action for patent infringement arising under the patent laws of the
25 United States, Title 35, United States Code.

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). On information and belief, Defendants are subject to this Court's personal jurisdiction, consistent with the principles of due process and the Washington Long Arm Statute, because each Defendant offers for sale and sells Portable Navigation Devices and Software in the Western District of Washington, has transacted business in this District, and/or has committed and/or induced acts of patent infringement in this District. For example, Defendants' own website (e.g., <http://www.tomtom.com/page/giftguide?Lid=4&selector=true>) allows users to purchase Defendants' products for delivery within this District. The website at <http://www.tomtom.com/stores/type.php?ID=2&Country=223> directs users of the Defendants' website to retail outlets selling Defendants' products within this District. Additionally, the website at <http://www.tomtom.com/stores/type.php?ID=1&Country=223> directs users of the Defendants' website to online merchants selling Defendants' products for delivery within this District.

PATENT INFRINGEMENT COUNTS

10. Microsoft is the owner of all right, title, and interest in U.S. Patent Nos. 6,175,789; 7,054,745; 6,704,032; 7,117,286; 6,202,008; 5,579,517; 5,758,352; and 6,256,642 (collectively, “the Microsoft patents-in-suit”), which the Defendants are directly infringing and/or inducing others to infringe by making, using, offering to sell or selling in the United States, or importing into the United States, products or processes that practice inventions claimed in the Microsoft patents-in-suit.

11. The Defendants have profited through infringement of the Microsoft patents-in-suit. As a result of the Defendants' unlawful infringement of the Microsoft patents-in-suit patent, Microsoft has suffered and will continue to suffer damage. Microsoft is entitled to

1 recover from the Defendants the damages suffered by Microsoft as a result of the Defendants'
2 unlawful acts.

3 12. Defendants' infringement of the Microsoft patents-in-suit constitutes willful and
4 deliberate infringement, entitling Microsoft to enhanced damages and reasonable attorney fees
5 and costs. Microsoft provided defendant TomTom N.V. notice of its infringement allegations in
6 a June 13, 2008 letter to Peter-Frans Pauwels, Chief Technical Officer of Defendant TomTom
7 N.V. Upon information and belief, Defendant TomTom, Inc. received notice of Microsoft's
8 infringement allegations from its parent, TomTom N.V.

9 13. Upon information and belief, the Defendants intend to continue their unlawful
10 infringing activity, and Microsoft continues to and will continue to suffer irreparable harm—for
11 which there is no adequate remedy at law—from such unlawful infringing activity unless
12 Defendants are enjoined by this Court.

13 **COUNT I**

14 **INFRINGEMENT OF U.S. PATENT NO. 6,175,789**

15 14. Microsoft realleges and incorporates by reference the allegations set forth in
16 paragraphs 1-13.

17 15. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,175,789
18 ("the '789 patent"), entitled "Vehicle Computer System with Open Platform Architecture" duly
19 and properly issued by the U.S. Patent and Trademark Office on January 16, 2001. A copy of
20 the '789 patent is attached as Exhibit A.

21 16. The Defendants have been and/or are directly infringing and/or inducing others to
22 infringe the '789 patent by, among other things, making, using, offering to sell or selling in the
23 United States, or importing into the United States, products, including various Portable
24 Navigation Devices and Software that embody or incorporate, or the operation of which
25 otherwise practices, one or more claims of the '789 patent.
26

1 **COUNT II**

2 **INFRINGEMENT OF U.S. PATENT NO. 7,054,745**

3 17. Microsoft realleges and incorporates by reference the allegations set forth in
4 paragraphs 1-13.

5 18. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,054,745
6 (“the ‘745 patent”), entitled “Method and System For Generating Driving Directions,” duly and
7 properly issued by the U.S. Patent and Trademark Office on May 30, 2006. A copy of the ‘745
8 patent is attached as Exhibit B.

9 19. The Defendants have been and/or are directly infringing and/or inducing others to
10 infringe the ‘745 patent by, among other things, making, using, offering to sell or selling in the
11 United States, or importing into the United States, products, including various Portable
12 Navigation Devices and Software that embody or incorporate, or the operation of which
13 otherwise practices, one or more claims of the ‘745 patent.

14 **COUNT III**

15 **INFRINGEMENT OF U.S. PATENT NO. 6,704,032**

16 20. Microsoft realleges and incorporates by reference the allegations set forth in
17 paragraphs 1-13.

18 21. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,704,032
19 (“the ‘032 patent”), entitled “Methods and Arrangements for Interacting with Controllable
20 Objects within a Graphical User Interface Environment Using Various Input Mechanisms,” duly
21 and properly issued by the U.S. Patent and Trademark Office on March 9, 2004. A copy of the
22 ‘032 patent is attached as Exhibit C.

23 22. The Defendants have been and/or are directly infringing and/or inducing others to
24 infringe the ‘032 patent by, among other things, making, using, offering to sell or selling in the
25 United States, or importing into the United States, products, including various Portable
26

Navigation Devices and Software that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '032 patent.

COUNT IV

INFRINGEMENT OF U.S. PATENT NO. 7,117,286

23. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-13.

24. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 7,117,286 ("the '286 patent"), entitled "Portable Computing Device-integrated Appliance," duly and properly issued by the U.S. Patent and Trademark Office on October 3, 2006. A copy of the '286 patent is attached as Exhibit D.

25. The Defendants have been and/or are directly infringing and/or inducing others to infringe the '286 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products, including various Portable Navigation Devices and Software that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '286 patent.

COUNT V

INFRINGEMENT OF U.S. PATENT NO. 6,202,008

26. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-13.

27. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,202,008 ("the '008 patent"), entitled "Vehicle Computer System with Wireless Internet Connectivity," duly and properly issued by the U.S. Patent and Trademark Office on March 13, 2001. A copy of the '008 patent is attached as Exhibit E.

28. The Defendants have been and/or are directly infringing and/or inducing others to infringe the '008 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products, including various Portable

Navigation Devices and Software that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '008 patent.

COUNT VI

INFRINGEMENT OF U.S. PATENT NO. 5,579,517

29. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-13.

30. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,579,517 ("the '517 patent"), entitled "Common Name Space for Long and Short Filenames," duly and properly issued by the U.S. Patent and Trademark Office on November 26, 1996. A reexamination certificate was issued by the U.S. Patent and Trademark Office for the '517 patent on November 28, 2006. A copy of the '517 patent, including reexamination certificate, is attached as Exhibit F.

31. The Defendants have been and/or are directly infringing and/or inducing others to infringe the '517 patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products, including various Portable Navigation Devices and Software that embody or incorporate, or the operation of which otherwise practices, one or more claims of the '517 patent.

COUNT VII

INFRINGEMENT OF U.S. PATENT NO. 5,758,352

32. Microsoft realleges and incorporates by reference the allegations set forth in paragraphs 1-13.

33. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 5,758,352 ("the '352 patent"), entitled "Common Name Space for Long and Short Filenames," duly and properly issued by the U.S. Patent and Trademark Office on May 26, 1998. A reexamination certificate was issued by the U.S. Patent and Trademark Office for the '352 patent on October

1 10, 2006. A copy of the '352 patent, including reexamination certificate, is attached as Exhibit
2 G.

3 34. The Defendants have been and/or are directly infringing and/or inducing others to
4 infringe the '352 patent by, among other things, making, using, offering to sell or selling in the
5 United States, or importing into the United States, products, including various Portable
6 Navigation Devices and Software that embody or incorporate, or the operation of which
7 otherwise practices, one or more claims of the '352 patent.

8 **COUNT VIII**

9 **INFRINGEMENT OF U.S. PATENT NO. 6,256,642**

10 35. Microsoft realleges and incorporates by reference the allegations set forth in
11 paragraphs 1-13.

12 36. Microsoft is the owner of all right, title, and interest in U.S. Patent No. 6,256,642
13 ("the '642 patent"), entitled "Method and System for File System Management Using a Flash-
14 Erasable, Programmable, Read-only Memory" duly and properly issued by the U.S. Patent and
15 Trademark Office on July 3, 2001. A copy of the '642 patent is attached as Exhibit H.

16 37. The Defendants have been and/or are directly infringing and/or inducing others to
17 infringe the '642 patent by, among other things, making, using, offering to sell or selling in the
18 United States, or importing into the United States, products, including various Portable
19 Navigation Devices and Software that embody or incorporate, or the operation of which
20 otherwise practices, one or more claims of the '642 patent.

21 **DEMAND FOR JURY TRIAL**

22 38. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Microsoft
23 respectfully requests a trial by jury on all issues properly triable by jury.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Microsoft prays for relief as follows:

3 A. For a judgment declaring that each Defendant has infringed at least one claim of
4 each of the Microsoft patents-in-suit;

5 B. For a judgment awarding Microsoft compensatory damages as a result of each
6 Defendant's infringement of the Microsoft patents-in-suit, together with interest and costs, and
7 in no event less than a reasonable royalty;

8 C. For a judgment declaring that each Defendant's infringement of the Microsoft
9 patents-in-suit, has been willful and deliberate;

10 D. For a judgment awarding Microsoft treble damages and pre-judgment interest
11 under 35 U.S.C. § 284 as a result of each Defendant's willful and deliberate infringement of the
12 Microsoft patents-in-suit;

13 E. For a judgment declaring that this case is exceptional as to each Defendant and
14 awarding Microsoft its expenses, costs, and attorneys fees in accordance with 35 U.S.C. §§ 284
15 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

16 F. For a grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining each
17 Defendant from further acts of infringement; and

18 G. For such other and further relief as the Court deems just and proper.

19 Respectfully submitted,

20 KLARQUIST SPARKMAN, LLP

21 Dated: February 25, 2009

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